

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1070P3821

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on August 11, 2009Signature /Spencer A. Bartl/Typed or printed name Spencer A. Bartl

Application Number

10/616,097

Filed

July 8, 2003

First Named Inventor

Mark Davis

Art Unit

2173

Examiner

Zhou, Ting

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.
/John F. Kacvinsky/

Signature

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
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Registration number if acting under 37 CFR 1.34 _____

August 11, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below.

☒ *Total of 1 forms are submitted.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Mark Davis	Examiner:	Zhou, Ting
Serial No.:	10/616,091	Group Art Unit:	2173
Filed:	July 8, 2003	Docket No.:	1070.P3821
Title:	DATA BROWSING METHOD AND SYSTEM FOR USER INTERFACE		

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicants have carefully reviewed and considered the Final Office Action mailed on May 11, 2009 and the cited references. In response to the Final Office Action, Applicants respectfully request review prior to the filing of an Appeal Brief.

Claim Rejections – 35 USC §103(a)

Claims 6, 7, 9, 10, 16, 17, 19, 20, 27, 28-31 and 37-41 are pending in the present application.

Claims 7, 9, 10, 17, 19, 20, 28-31 and 37-41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dyszel (Handspring Visor for Dummies) in view of U.S. Patent 7,254,782 (Sherer) and Microsoft Windows Version 5.1 (hereinafter “Windows”).

Claims 6, 16 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dyszel and Windows.

Applicants respectfully traverse these rejections.

REMARKS

Applicants respectfully submit that the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 6, 7, 9, 10, 16, 17, 19, 20, 27, 28-31 and 37-41.

For example, claim 6 recites the following language, in relevant part:

displaying a weekly view graphical image on a display screen, said display screen is switchable between a small display mode which is substantially square in shape and a tall display mode which is substantially rectangular in shape using a sliding mechanism....

According to the Office Action, Dyszel fails to disclose the above-recited language of claim 6. Office Action, Page 14. The Examiner asserts Windows to remedy this deficiency. In particular, the Examiner construes “display screen” to read on a “window” for a graphic user interface.” The Examiner further construes “sliding mechanism” to read on “selecting a corner of the display in Screenshot 5 and sliding it” as taught by Windows. Office Action, Pages 14-15. Applicants respectfully submit that the Examiner performs an improper claim construction for these features.

The Examiner has not properly construed the claim language “display screen” consistent with the specification. It is a well-established that the pending claims must be “given their broadest reasonable interpretation consistent with the specification.” In re ICON Health and Fitness, Inc., 496 F.3d 1374, 1379 (Fed. Cir. 2007). As stated in the specification, the “display screen” is part of a portable computing device, such as a handheld computing device. Specification, Lines 4-7. One example of a “display screen” may include a “touch-screen display.” Specification, Line 7. As such, the Examiner improperly construes a hardware part such as “display screen” to read on a software part such as a window for a GUI. In fact, claim 6

explicitly recites a “preview window” which further delineates a clear difference between “display screen” and a window for a GUI.

Further, the Examiner has not properly construed the claim language “sliding mechanism” consistent with its unambiguous definition. The term “mechanism” in the phrase “sliding mechanism” clearly refers to a mechanical part. However, the Examiner has construed the term “sliding mechanism” to read on a software control feature of a GUI. This construction wholly reads out the term “mechanism” from the phrase “sliding mechanism.”

In addition, the Examiner has not properly construed the claim language “sliding mechanism” consistent with the specification. As stated in the specification, “[e]mbodiments which are implemented...in handheld devices that slide open or unfold to present the extended screen area....” Specification, Page 5, Lines 18-21. Further, with respect to FIGS 3A, 3B, the Specification states that “the ensuing example of a graphical user interface interaction can follow that of a square screen implementation until the device is slid to the open position.” Specification, Page 21, Lines 3-9. Further, FIGS. 3A, 3B show a device 300 “implemented in a folding or telescoping form factor.” The Specification further states that “line 310 illustrates a dividing line between upper body portion 311 and lower body portion 312 which is shown slid over touch-screen display 301, thus showing only the uppermost portion of the display.” Specification, Page 17, Lines 7-14. Thus, it is clear from FIGS. 3A, 3B and accompanying description that the term “sliding mechanism” refers to a physical or mechanical sliding mechanism. However, the Examiner improperly construes “sliding mechanism” to read on a software GUI control feature of “selecting a corner of the display in Screenshot 5 and sliding it.” A software control feature for a GUI is not a physical or mechanical sliding mechanism.

Consequently, the cited references fail to disclose all the elements or features of the claimed subject matter of claim 6. Accordingly, Applicants respectfully request removal of the obviousness rejection with respect to claim 6. Furthermore, Applicants respectfully request withdrawal of the obviousness rejections with respect to claims 7, 9, 10, 16, 17, 19, 20, 27 and 28-31, which contain similar features, as well as additional features that further distinguish these claims from the cited references.

With respect to claims 37-41, these claims recite, either directly or indirectly, the term “folding mechanism.” Similar to the Examiner’s improper claim interpretation of the term “sliding mechanism,” the Examiner improperly construes the term “folding mechanism” to read on “expanding or collapsing the divider.” Office Action, Page 12. The term “mechanism” in the phrase “folding mechanism” refers to a mechanical part. Furthermore, as stated in the specification, “[e]mbodiments which are implemented...in handheld devices that slide open or unfold to present the extended screen area....” Specification, Page 5, Lines 18-21. Therefore, the term “folding mechanism” refers to a physical or mechanical folding mechanism. Again, the Examiner improperly construes “folding mechanism” to read on a software control feature of a GUI for “expanding or collapsing the divider.” A software GUI control feature is not a physical or mechanical folding mechanism.

Consequently, the cited references fail to disclose all the elements or features of the claimed subject matter of claim 37. Accordingly, Applicants respectfully request removal of the obviousness rejection with respect to claim 37. Furthermore, Applicants respectfully request withdrawal of the obviousness rejections with respect to claims 38-41, which contain similar features, as well as additional features that further distinguish these claims from the cited references.

For at least the above reasons, Applicants submit that claims 6, 7, 9, 10, 16, 17, 19, 20, 27, 28-31 and 37-41 recite novel features not shown by the cited references. Further, Applicants submit that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicants submit that the claims are not rendered obvious in view of the cited references.

Respectfully submitted,

KACVINSKY LLC



John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: August 11, 2009

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